

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

FREE SPEECH COALITION, INC., ET AL.,

Plaintiffs,

v.

ANGELA COLMENERO, IN HER
OFFICIAL CAPACITY AS INTERIM
ATTORNEY GENERAL FOR THE STATE
OF TEXAS

Defendant.

CASE NO. 1:23-cv-00917-DAE

**PLAINTIFFS' OPPOSITION TO DEFENDANT'S MOTION FOR EXTENSION OF
TIME TO FILE RESPONSIVE PLEADING**

Plaintiffs hereby respectfully oppose Defendant's Motion for an Extension of Time (Dkt. #21) to oppose Plaintiffs' Motion for Expedited Preliminary Injunction (Dkt. #5). Defendant's Motion lacks merit and should be denied for at least three reasons:

First, Defendant offers no argument, nor any specifics, to explain why an extension would be proper and warranted. All Defendant offers is the bare statement that Defendant needs an "adequate time to prepare a response." Mot. at 2. This is conclusory, insufficient, and beside the point in light of Defendant's acknowledgement (Mot. at 1) that she was served on August 4, 2023. Suffice it to note that Defendant *has* been afforded "adequate time" to respond under this Court's existing schedule, especially considering that the time-sensitive nature of this action was apparent to Defendant from the pleadings and initial papers. To the extent Defendant means to suggest that the time already available to her is *inadequate*, there is no ostensible reason *why*, nor does Defendant specify any such reason, as she would need to do in order to establish good cause.

Second, an extension would prejudice Plaintiffs. *See, e.g., Williams v. Ladera Apartments*, 2021 WL 4622269, at *1 (E.D. Tex. Mar. 23, 2021) (declining to grant an extension of time where doing so would expose the plaintiff to irreparable harm, even at plaintiff's own request). Despite acknowledging (Mot. at 1) the imminent deadline of September 1, 2023 for this Court to issue an Order, Defendant requests an extension until August 21, 2023—a mere 10 days before the challenged law would take effect and inflict irreparable harm. The proposed extension will either push the entry of the Court's Order past September 1, 2023 and thereby expose Plaintiffs to irreparable harm, or else cut in half the time available for the Court to review and consider the parties' papers.

Third, Defendant failed to meaningfully meet and confer with Plaintiffs before filing. After first reaching out to Plaintiffs' counsel this morning of August 9 via email, and then this afternoon via a telephone voicemail, Defendant filed a mere two hours later, before Plaintiffs could even respond. Defendant refers simply to the "short time" (Mot. at 3) between her attempt to contact Plaintiffs and her filing of the instant Motion. But no reason is apparent why Defendant could not have waited until this evening before filing unilaterally, without the parties having even engaged

about the requested extension, the purported grounds, any possible compromise, or any alternatives.

For the foregoing reasons, the Court should deny Defendant's request for an extension. Alternatively, if the requested extension is granted and compresses the time that the Court has available to grant a preliminary injunction in advance of September 1, 2023, then Plaintiffs respectfully request that the Court enter a Temporary Restraining Order, pursuant to Federal Rule of Civil Procedure 65, so as to enjoin enforcement of the Act of June 12, 2023, Ch. 676 (H.B. 1181) Tex. Sess. Law Serv. (Vernon's), pending the issuance of a ruling on Plaintiffs' Motion. In no event should the Act be permitted to take effect before the Court can account for the First Amendment rights and constitutional concerns presented here.

DATED: August 9, 2023

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By /s/ Scott L. Cole

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